

Eff.: 10/14/11

ORDINANCE NO. 3819

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
BURBANK APPROVING A THIRD AMENDMENT TO THE  
DEVELOPMENT AGREEMENT (BURBANK-GLENDALE-  
PASADENA AIRPORT AUTHORITY, APPLICANT) AND  
ADOPTING AN ADDENDUM RELATED THERETO.

City Attorney Synopsis

This Ordinance approves a Third Amendment to the Development Agreement between the City of Burbank and the Burbank-Glendale-Pasadena Airport Authority to extend the term of the Development Agreement for approximately three years, until March 2015. Further, the Amendment will facilitate public outreach and discussion about future land use options for the Airport. Additionally, this Ordinance clarifies that the extended term is applicable to each of the first two amendments of the Development Agreement as well.

The City, as a responsible agency under the California Environmental Quality Act, considered and approved the Addendum to two Mitigated Negative Declarations prior to approving the Third Amendment.

THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. Pursuant to California Government Code Sections 65864-65869.5, the City and the Burbank-Glendale-Pasadena Airport Authority ("Authority") entered into a Development Agreement ("Agreement"), effective March 15, 2005, to provide greater certainty to the parties on issues of Airport zoning and development, among other things. The vesting aspects of the Agreement expire June 21, 2012. The Agreement was recorded as Instrument No. 05 0643306 on March 21, 2005 in the Office of the Los Angeles County Recorders.

B. On August 24, 2010, the City enacted Ordinance 3788 which approved the First Amendment to the Agreement. That amendment allowed construction of a four story Regional Intermodal Transit Center with air passenger parking, consolidated rental car facilities, a bus plaza and transit lounge. That amendment also allowed construction of a new three story parking structure, elevated pedestrian walkway, and a public compressed natural gas (CNG) station.

C. On August 24, 2010, the City also enacted Ordinance 3790 which approved the Second Amendment to the Agreement. That amendment incorporated additional land that the Authority planned to acquire consisting of parking lots adjacent to the Union Pacific Railroad tracks. That Second Amendment will become effective upon the Authority's acquisition of that additional property, which has not yet occurred.

D. The Agreement contemplated that prior to the expiration of the Agreement in 2012, the staff of the City and the staff of the Authority would begin working together to consider future land use options for the Airport once the Agreement expired.

E. The City and Authority staffs, through the Land Use Working Group, have been meeting since January 2011 to consider future land use options for the Airport. City staff reported to the City Council on April 19, 2011 on the progress of the Working Group discussions. At that time, Council directed the staff to begin drafting an amendment to the Agreement ("Third Amendment") to extend the term of the Agreement until 2015 and to prepare a public outreach program to develop a vision for the future of the Airport.

F. The Authority, acting as the lead agency, undertook to prepare environmental documentation for the Third Amendment to the Development Agreement between the City of Burbank and the Burbank-Glendale-Pasadena Airport Authority regarding the Bob Hope Airport.

G. Pursuant to the California Environmental Quality Act ("CEQA"), the Airport Authority adopted a Mitigated Negative Declaration ("MND No. 1") when the Development Agreement was approved in 2005, and another MND ("MND No. 2") when the Development Agreement was amended in 2010.

H. The Authority completed an environmental analysis of the Third Amendment and determined that the Third Amendment would not result in any new or different impacts that were not identified in the prior MNDs. None of the conditions described in State CEQA Guidelines Section 15162, which identifies when a subsequent MND is required, has been met, and therefore the Authority prepared an Addendum to the previously approved MNDs.

I. The custodian of the Authority documents and other materials that constitute its record of proceedings is the Clerk of the Burbank-Glendale-Pasadena Airport Authority Commission, whose office is located at 2627 Hollywood Way, Burbank, California 91505. The custodian of the City documents and other material that constitute the City's record of proceedings is the City Clerk of Burbank, whose office is located at 275 East Olive Avenue, Burbank, California 91510.

J. On July 25, 2011, following a duly noticed public hearing, the City's Planning Board adopted Resolution No. 3232, recommending that the City Council adopt the Addendum and approve the Third Amendment.

K. On August 1, 2011, the Authority adopted Resolution No. 443, approving the Addendum to two previously adopted mitigated negative declarations and approving the Third Amendment with the City relating to the Bob Hope Airport.

L. The Council of the City of Burbank at its regular meeting of August 16, 2011 opened the duly noticed hearing on the Third Amendment to the Agreement and continued the public hearing to September 8, 2011.

M. The Council of the City of Burbank at a continued regular meeting of September 8, 2011 conducted the duly noticed hearing on the Third Amendment ("Third Amendment").

N. The Council considered the testimony and evidence presented at the public hearing, including the report and recommendation of the Community Planning Department and the action of the City Planning Board as evidenced in Resolution No. 3232.

O. The hearing and the Third Amendment comply with the requirements of the "Development Agreement Ordinance" set forth in Burbank Municipal Code ("BMC") Sections 10-1-1997 et seq. which authorizes governmental entities to utilize a development agreement in order to accommodate major or unique projects and to encourage comprehensive planning. The Council finds that the Development Agreement, as amended by this Third Amendment, contains the provisions set forth in Section 10-1-19105 of the BMC and the requirements of Government Code Section 65864 et seq.

P. The Council finds that the Third Amendment does not substantially change the findings made in Ordinance 3659 when the Agreement was originally approved in 2005.

Q. By approving the Third Amendment, the City will give residents of the City and nearby communities the opportunity to participate in an outreach process designed to create a vision for the future of the Airport and, ultimately, if that process is successful, a plan for the future of the Airport. The Third Amendment will further extend for almost three additional years the benefits that have been realized as a result of approving the original Agreement in 2005.

R. The Third Amendment will not approve the construction of a relocated or expanded airport terminal at the Bob Hope Airport pursuant to BMC § 2-3-112. Should the outreach process contemplated by the Third Amendment result in a plan or proposal that includes a relocated or expanded terminal project, the City Council will not approve such a plan or proposal without compliance with BMC § 2-3-112.

#### THE COUNCIL OF THE CITY OF BURBANK ORDAINS AS FOLLOWS:

1. The Council hereby specifically finds that all of the facts and findings set forth in the Recitals, Parts A-R of this Ordinance are true and correct.

2. The Addendum to MND No.1 and MND No. 2, approved by the Authority, determined that the Third Amendment would not result in any new or different impacts that were not identified in the prior MNDs. None of the conditions described in State CEQA Guidelines Section 15162, which identifies when a subsequent MND is required, has been met, and therefore the Authority prepared an Addendum to the previously approved MNDs. The City Council as responsible agency, has received and considered the Addendum, and finds that the Addendum was prepared in accordance with Section 15164 of the CEQA Guidelines, and that none of the conditions warranting either supplemental or subsequent review, under CEQA Guidelines Sections 15163 or 15162, respectively, have been triggered. The City Council in its independent judgement has reviewed and considered the two MND's and the Addendum, prior to consideration of the Third Amendment. Based on these findings and all of the evidence in the record, the City Council adopts the Addendum to MND No. 1 and MND No.2.

3. The Third Amendment to the Agreement is consistent with the City's General Plan.

4. The Third Amendment to the Agreement in the form presented at this meeting, and which is incorporated herein by this reference, is hereby approved. The City Manager, or his designee, is authorized to execute at the time the Ordinance is effective, and the City Clerk to attest, the Third Amendment to the Agreement on behalf of the City. The City Attorney is authorized to make clerical, typographical or non-substantive corrections in the Third Amendment prior to execution by the City Manager and attestation by the City Clerk.

5. Section 6 of Ordinance No. 3790 which approved the Second Amendment to the Development Agreement is amended to clarify the new date on which vested rights would expire, as follows:

"This Ordinance [3790] shall become effective upon the latter of: at 12:01 a.m. on the thirty-first (31st) day after the date of adoption; or when the Authority takes legal title to all of the property. If title is not taken by ~~June 21, 2012~~ March 15, 2015, this Ordinance shall automatically become null and void....".

6. Section 1 of the Second Amendment to the Development Agreement is further amended to clarify the new date on which vested rights would expires, as follows:

"In no event shall this Agreement provide any rights to develop the project herein after ~~June 24~~ March 15, 2015, the expiration date of vesting rights;...".

7. The City Clerk shall certify to the passage of this Ordinance and cause the City Attorney Synopsis of this Ordinance to be published once in a newspaper of general circulation, published and circulated in the City of Burbank, California within fourteen (14) days of adoption. The City Clerk is directed to fill in the required appropriate information remaining in this Ordinance and in the Third Amendment.

8. This Ordinance shall become effective at 12:01 a.m. of the thirty-first day after the date of adoption.

9. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion thereof has been deleted.

10. The City Planner shall file a Notice of Determination within five working days in the same manner as the lead agency under CEQA Guidelines Section 15075, but with the statement that the City considered the Addendum to the Mitigated Negative Declarations as prepared by the lead agency pursuant to CEQA Guidelines Section 15096 (i).

PASSED AND ADOPTED this 13th day of September, 2011.

s/Jess A. Talamantes

Jess A. Talamantes

Mayor of the City of Burbank

Attest:

s/Margarita Campos

Margarita Campos, CMC, City Clerk

Approved as to Form and Legal Content

Dennis A. Barlow, City Attorney

By: s/Mary F. Riley

Mary F. Riley, Sr. Asst. City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES    ) ss.  
CITY OF BURBANK             )

I, Margarita Campos, CMC, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. 3819 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 13th day of September, 2011, by the following vote:

AYES:           Council Members Bric, Gabel-Luddy, Golonski and Talamantes.

NOES:           Council Member Gordon.

ABSENT:        Council Members None.

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California on the 21st day of September, 2011.

s/Margarita Campos  
Margarita Campos, CMC, City Clerk